

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JANICE K. LACHMAN
Supervising Deputy Attorney General
4 State Bar No. 186131
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7384
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2011-618*

13 **CORNELIO AQUINO PAYUYO, JR.,**
14 **a.k.a. CORNELIO A. PAYUYO, JR.**
12731 Dairy Street
Corona, CA 92880
Registered Nurse License No. 773583

ACCUSATION

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about May 11, 2010, the Board issued Registered Nurse License Number
23 773583 to Cornelio Aquino Payuyo, Jr., also known as Cornelio A. Payuyo, Jr. ("Respondent").
24 Respondent's registered nurse license was in full force and effect at all times relevant to the
25 charges brought herein and will expire on November 30, 2011, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
28 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
15 California health care professional licensing board. A certified copy of the decision
16 or judgment shall be conclusive evidence of that action . . .

15 COST RECOVERY

16 6. Code section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 CAUSE FOR DISCIPLINE

21 (Disciplinary Action by the Ohio Board of Nursing)

22 7. Respondent is subject to disciplinary action pursuant to Code section 2761,
23 subdivision (a)(4), on the grounds of unprofessional conduct, in that he was disciplined by the
24 Ohio Board of Nursing ("Ohio Board"), as follows: On or about July 30, 2010, pursuant to the
25 Consent Agreement Between Cornelio A. Payuyo, Jr., R.N. and Ohio Board of Nursing,

26 Respondent's license to practice as a registered nurse in the State of Ohio was suspended
27 indefinitely. The suspension was stayed and Respondent was placed on probation for 2 years

28 ///

1 subject to terms, conditions, and limitations. A true and correct copy of the Consent Agreement
2 is attached hereto as Exhibit A and incorporated herein. Respondent admitted as follows:

3 a. On or about September 2, 2009, while employed as a registered nurse in the
4 Emergency Department at the Cleveland Clinic Foundation in Cleveland, Ohio, Respondent took
5 a verbal order from a resident Medical Doctor (MD) for 5 mg Lopressor IV for "the patient in
6 room 16." Respondent obtained the medication, entered room 18, and administered the
7 medication to the wrong patient. Respondent failed to verify the patient's name or other
8 identifying information with the physician or the patient's primary RN, failed to verify the
9 patient's allergies prior to administering the medication, failed to document the order on the MD
10 order sheet, failed to report the error to his Nurse Manager, and failed to complete an incident
11 report. The patient who received the medication from Respondent was in the Emergency
12 Department being evaluated for a subarachnoid hemorrhage. After receiving the medication from
13 Respondent, the patient became unstable and required resuscitation efforts. Respondent was
14 terminated from his employment at the Cleveland Clinic Foundation on or about September 28,
15 2009.

16 b. Prior to his termination from the Cleveland Clinic Foundation as above, Respondent
17 received counseling or corrective action in 2007-2008 for safety issues, including almost
18 administering a heparin bolus IM to the wrong patient and delivering lab specimens that either did
19 not match the patients on the requisitions or that were not labeled.

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

- 23 1. Revoking or suspending Registered Nurse License Number 773583, issued to
24 Cornelio Aquino Payuyo, Jr., also known as Cornelio A. Payuyo, Jr.;
- 25 2. Ordering Cornelio Aquino Payuyo, Jr., also known as Cornelio A. Payuyo, Jr. to pay
26 the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
27 case, pursuant to Business and Professions Code section 125.3;

28 ///

1 3. Taking such other and further action as deemed necessary and proper.

2
3 DATED:

1/12/11

Louise R. Bailey

LOUISE R. BAILEY, M.Ed., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

27 SA2010102608
28 10639154.doc

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT A

CONSENT AGREEMENT



Ohio Board of Nursing

www.nursing.ohio.gov

17 South High Street, Suite 400 • Columbus, Ohio 43215-7410 • (614) 466-3947

CONSENT AGREEMENT BETWEEN CORNELIO A. PAYUYO, JR., R.N. AND OHIO BOARD OF NURSING

This Consent Agreement is entered into by and between **CORNELIO A. PAYUYO, JR., R.N.** and the Ohio Board of Nursing (Board), the state agency charged with enforcing Chapter 4723. of the Ohio Revised Code (ORC), and all administrative rules promulgated thereunder.

MR. PAYUYO voluntarily enters into this Consent Agreement being fully informed of his rights under Chapter 119, ORC, including the right to representation by legal counsel and the right to a formal adjudicative hearing on the issues considered herein.

This Consent Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Consent Agreement.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4723.28, ORC, to deny, permanently revoke, revoke, suspend, or place restrictions on any license issued by the Board; reprimand or otherwise discipline a licensee; or impose a fine of five hundred dollars (\$500.00) or less per violation. Section 4723.28(B)(19), ORC, authorizes the Board to discipline a licensee for failure to practice in accordance with acceptable and prevailing standards of safe nursing care. Section 4723.28(B)(16), ORC, authorizes the Board to discipline a licensee for violation of Chapter 4723, ORC, or any rules adopted under it. Specifically, Rule 4723-4-06(H), Ohio Administrative Code, states that a licensed nurse shall implement measures to promote a safe environment for each client.
- B. **MR. PAYUYO** has been licensed to practice nursing as a registered nurse in the state of Ohio, RN-332359, since May 2007. **MR. PAYUYO** also holds lapsed licenses in Alaska (2003-2006) and Virginia (2005-2007) and currently holds a valid, current license in California initially issued in May 2010. As of June 2010, **MR. PAYUYO** has not had any disciplinary action on his other state-issued nursing licenses.

CERTIFIED TO BE A TRUE COPY

[Signature] 8/4/10
OHIO BOARD OF NURSING

- C. **MR. PAYUYO** knowingly and voluntarily admits to the factual and legal allegations set forth in the Notice of Opportunity for Hearing issued by the Board on May 21, 2010 (May 2010 Notice), *a copy of which is attached hereto and incorporated herein.*
- D. **MR. PAYUYO** readily admits to the error, as explained in the attached May 2010 Notice but denies that he put the nursing progress notes in the trash. **MR. PAYUYO** admits that, prior to his termination from Cleveland Clinic Foundation, he received counseling or corrective action in 2007-2008 for safety issues, including almost administering a herapin bolus IM to the wrong patient and delivering lab specimens that either did not match the patients on the requisitions or that were not labeled.
- E. **MR. PAYUYO** currently works in California, hopes to return to Ohio, and is willing to cooperate with the Board to ensure that he practices nursing safely.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, **MR. PAYUYO** knowingly and voluntarily agrees with the Board to the following terms, conditions, and limitations:

MR. PAYUYO's license to practice nursing as a registered nurse is hereby suspended indefinitely. Such suspension is hereby stayed, subject to the following PROBATIONARY terms, conditions, and limitations for a **minimum period of two (2) years**:

1. **MR. PAYUYO** shall obey all federal, state, and local laws, and all laws and rules governing the practice of nursing in Ohio.
2. **MR. PAYUYO** shall appear in person for interviews before the full Board or its designated representative as requested by the Board or its designee.
3. **Prior to working as a nurse in Ohio, MR. PAYUYO** shall, in addition to the requirements of licensure renewal, successfully complete and submit satisfactory documentation of successful completion of the following continuing nursing education taken subsequent to the effective date of this Consent Agreement: ten (10) hours of Patient Safety; ten (10) hours of Preventing Medication Errors; ten (10) hours of Documentation; five (5) hours of Communication; and five (5) hours of Critical Thinking.

Employment Conditions

4. **Prior to working as a nurse in Ohio, MR. PAYUYO** shall obtain approval from the Board or its designee and shall be in full compliance with this Consent Agreement.

5. **MR. PAYUYO** shall notify the Board, in writing, of the name and address of any new employer prior to accepting employment.
6. **MR. PAYUYO** is under a continuing duty to provide a copy of this Consent Agreement and the attached May 2010 Notice to any new employer prior to accepting employment. **MR. PAYUYO** shall have his employer(s), if working in a position where a nursing license is required, submit written reports regarding job performance on a quarterly basis **beginning thirty (30) days after employment**. **MR. PAYUYO** shall have his employer(s) send documentation to the Board, along with the first employer report, of receipt of a copy of this Consent Agreement and the attached May 2010 Notice, including the date the Consent Agreement and the attached May 2010 Notice were received.

Reporting Requirements of Licensee

7. **MR. PAYUYO** shall report to the Board in writing, any violation of this Consent Agreement within thirty (30) days of the occurrence of the violation.
8. **MR. PAYUYO** shall sign release of information forms allowing health professionals and other organizations to submit the requested documentation directly to the Board.
9. **MR. PAYUYO** shall submit any and all information that the Board may request regarding his ability to practice according to acceptable and prevailing standards of safe nursing practice.
10. **MR. PAYUYO** shall not submit or cause to be submitted any false, misleading, or deceptive statements, information, or documentation to the Board or to employers or potential employers.
11. **MR. PAYUYO** shall submit the reports and documentation required by this Consent Agreement on forms specified by the Board. All reporting and communications required by this Consent Agreement shall be made to the Compliance Unit of the Board.
12. **MR. PAYUYO** shall submit the reports and documentation required by this Consent Agreement or any other documents required by the Board to the attention of the Compliance Unit, Ohio Board of Nursing, 17 South High Street, Suite 400, Columbus, OH 43215-7410.
13. **MR. PAYUYO** shall verify that the reports and documentation required by this Consent Agreement are received in the Board office.

14. **MR. PAYUYO** shall inform the Board within five (5) business days, in writing, of any change in employment status or of any change in residential or home address or telephone number.

Permanent Practice Restrictions

MR. PAYUYO further knowingly and voluntarily agrees to the following **PERMANENT PRACTICE RESTRICTIONS**:

Unless otherwise approved in advance by the Board or its designee, **MR. PAYUYO** shall not practice nursing as a registered nurse (1) for agencies providing home care in the patient's residence; (2) for hospice care programs providing hospice care in the patient's residence; (3) for staffing agencies or pools; (4) as an independent provider where the nurse provides nursing care and is reimbursed for services by the State of Ohio through State agencies or agents of the State; or (5) for an individual or group of individuals who directly engage **MR. PAYUYO** to provide nursing services for fees, compensation, or other consideration or as a volunteer.

Unless otherwise approved in advance by the Board or its designee, **MR. PAYUYO** shall not function in a position or employment where the job duties or requirements involve management of nursing and nursing responsibilities, or supervising and evaluating nursing practice. Such positions include but, are not limited to, the following: Director of Nursing, Assistant Director of Nursing, Nurse Manager, Vice President of Nursing.

FAILURE TO COMPLY

MR. PAYUYO agrees that his license to practice nursing as a registered nurse will be automatically suspended if it appears to the Board that **MR. PAYUYO** has violated or breached any terms or conditions of the Consent Agreement. Following the automatic suspension, the Board shall notify **MR. PAYUYO** via certified mail of the specific nature of the charges and automatic suspension of his license. Upon receipt of this notice, **MR. PAYUYO** may request a hearing regarding the charges.

The above described terms and conditions shall constitute "restrictions placed on a license" for purposes of Section 4723.28(B), ORC. If, in the discretion of the Board, **MR. PAYUYO** appears to have violated or breached any terms or conditions of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

DURATION / MODIFICATION OF TERMS

The terms, limitations and conditions of this Consent Agreement, other than the permanent licensure restrictions, may be modified or terminated, in writing, at any time upon the agreement of both **MR. PAYUYO** and the Board.

The Board may only alter the probationary period imposed by this Consent Agreement if: (1) the Board determines that **MR. PAYUYO** has complied with all aspects of this Consent Agreement; and (2) the Board determines that **MR. PAYUYO** is able to practice according to acceptable and prevailing standards of safe nursing care without Board monitoring, based upon an interview with **MR. PAYUYO** and review of the reports as required herein. Any period during which **MR. PAYUYO** does not work in a position for which a nursing license is required shall not count toward fulfilling the probationary period imposed by this Consent Agreement.

ACKNOWLEDGMENTS / LIABILITY RELEASE

MR. PAYUYO acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

MR. PAYUYO waives all of his rights under Chapter 119, ORC, as they relate to matters that are the subject of this Consent Agreement.

MR. PAYUYO waives any and all claims or causes of action he may have against the Board, and its members, officers, employees and/or agents arising out of matters, which are the subject of this Consent Agreement.

This Consent Agreement shall be considered a public record as that term is used in Section 149.43, ORC. The information contained herein may be reported to appropriate organizations, data banks and governmental bodies.

This Consent Agreement is not an adjudication order as discussed in Chapter 119, ORC. Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedures Act, Chapter 119, ORC.

EFFECTIVE DATE

MR. PAYUYO understands that this Consent Agreement is subject to ratification by the Board prior to signature by the Board President and shall become effective upon the last date of signature below.



CORNELIO A. PAYUYO, JR., R.N.

06/18/2010
DATE



BERTHA LOVELACE, President
Ohio Board of Nursing

7/30/10
DATE

RECEIVED
2010 JUN 25 AM 11:44
BOARD OF NURSING
OHIO